Supreme Court, U.S.
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92-1369

No.

IN THE

SUPREME COURT OF THE UNITED STATES

JOSEPH ALBERICI AND THERESA ALBERICI, H/W

V.

SAFEGUARD MUTUAL INSURANCE COMPANY, ET AL.

PETITION FOR A WRIT OF CERTIORARI

TO THE SUPREME COURT OF

THE COMMONWEALTH OF PENNSYLVANIA

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QUESTIONS PRESENTED

I. Whether the Pennsylvania Supreme Court erred in denying allocatur to review the Superior Court's granting of summary judgment against Petitioner Joseph Alberici, thus letting a decision of the state court contravene the Petitioners' rights under the United States Constitution.

II. Whether the judges should have recused themselves for the obvious, gross appearances of impropriety, partiality, conflict of interest, bias and/or prejudice, and the interaction of the judges violated the judicial code and Petitioners' most fundamental rights.

III. Whether the insurance companies and their law firm, because of their awesome political power are allowed to engage in criminal activity and break the law by knowing and intentional misrepresentation using fraudulent lies of "policy, concealment of fraud and unknown to insureds." These words never existed with Count Five, nor

Exhibit 12 in this civil case or mail fraud case. These false and fabricated words robbed Petitioner and his family of monies due them and Petitioners' right to due process and equal treatment of the law.

IV. Whether Judge LaBrum was allowed to wrest control of this case from the authorized presiding Judge Battle without procedural authority. Judge LaBrum knowingly and willfully erred by giving preferential treatment to the insurance companies and their law firm and by cooperating with and condoning their improper and criminal act in breaking the law and violating Local Rules, Rules of Civil Procedures and related laws because of their awesome political power. This has an obvious appearance of impropriety, partiality, conflict of interest and/or bias to deprive Petitioner of his constitutional right to property without due process and equal treatment of the law.

V. Whether the Pennsylvania Superior and Supreme Courts are allowed to knowingly

and willfully err, cooperate with and condone the improper and criminal activities of the insurance companies and their law firm. The Courts also allowed their gross violations of Local Rules, Rules of Civil and Appellate Procedures because of their awesome political power. These actions are appearances of improprieties, partiality, conflict of interest and/or bias. Besides, they deprived Petitioner his constitutional right to liberty and property without due process and equal treatment of the law.

PARTIES TO THE PROCEEDING

Joseph Alberici and Theresa Alberici,

Petitioners

Safeguard Mutual Insurance Company

PA. Insurance Guaranty Association

General Accident Fire and Life Insurance

Corp., LTD.

Insurance Placement Facility of Pennsylvania

Quaker State Mutual Insurance Group

Home Mutual Insurance Company of

Pennsylvania, Respondents

STATEMENT OF THE CASE

Argument:

Whether the Pennsylvania Supreme Court erred in denying allocatur to review the Superior Court's granting of summary judgment against Petitioner Joseph Alberici, thus letting a decision of the state court contravene the Petitioners' rights under the United States Constitution.

Whether the judges should have recused themselves for the obvious gross appearances of impropriety, partiality, conflict of interest, bias and/or prejudice and the interaction of the judges violated the judicial code and Petitioners' most fundamental rights.

Whether the insurance companies and their law firm, because of their awesome political power are allowed to engage in criminal activity and break the law by knowing and intentional misrepresentation using fraudulent lies of "policy, concealment of fraud and unknown to insureds." These

words never existed with Count Five, nor Exhibit 12 in this civil case or mail fraud case. These false and fabricated words robbed Petitioner and his family of monies due them and Petitioners' right to due process and equal treatment of the law.

Whether Judge LaBrum was allowed to wrest control of this case from the authorized presiding Judge Battle without procedural authority. Judge LaBrum knowingly and willfully erred by giving preferential treatment to the insurance companies and their law firm and by cooperating with and condoning their improper and criminal act in breaking the law and violating Local Rules, Rules of Civil Procedures and related laws because of their awesome political power. This has an obvious appearance of impropriety, partiality, conflict of interest and/or bias to deprive Petitioner of his constitutional right to property without due process and equal treatment of the law.

Whether the Pennsylvania Superior and Supreme Courts are allowed to knowingly and willfully err, cooperate with and condone the improper and criminal activities of the insurance companies and their law firm. The Courts also allowed their gross violations of Local Rules, Rules of Civil and Appellate Procedures because of their awesome political power. These actions are appearances of improprieties, partiality, conflict of interest and/or bias. Besides, they deprived Petitioner his constitutional right to liberty and property without due process and equal treatment of the law.

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CONSTITUTIONAL PROVISIONS INVOLVED

The Fifth Amendment to the Constitution of the United States provides as follows:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

The Sixth Amendment to the Constitution of the United States provides as follows:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall

have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense."

The Fourteenth Amendment to the Constitution of the United States provides as follows:

Section 1 of the Fourteenth Amendment is the source of many civil rights, and prohibits states from making or enforcing any law which shall abridge the privileges or immunities of citizens of the United States; from depriving any person of life, liberty, or property, without due process of law; and from denying to any person within their jurisdiction the equal protection of the laws. There are thus three distinct provisions guaranteeing the rights of persons and property: (1) the privileges and

immunities clause; (2) the due process clause; and (3) the equal protection clause. The Amendment makes no attempt to enumerate the rights it was designed to protect. It speaks in general terms, and those are as comprehensive as possible. Its language is prohibitory; but every prohibition implies the existence of rights and immunities. The commands of the Amendment are addressed, however, only to the state or to those acting under color of its authority. The Amendment itself erects no shield against merely private conduct, however, discriminatory or wrongful. Similarly, actions of the Federal Government and its officers are beyond the purview of the Amendment.

The protection extended to citizens of the United States by the privileges and immunities clause includes those rights and privileges which, under the laws and Constitution of the United States are incident to citizenship of the United States, but does not include rights pertaining to

state citizenship and derived solely from the relationship of the citizen and his state established by state law. The clause protects all citizens against abridgment by states of rights of national citizenship as distinct from the fundamental or natural rights inherent in state citizenship. The Constitution nowhere defines the meaning of the words "citizen of the United States." Also, the rights of national citizenship have never been completely listed by the Supreme Court.

The due process clause was intended, in addition to other guaranties or private rights, to give increased security against arbitrary deprivation of life or liberty, or the arbitrary spoilation of property. It adds nothing to the rights of one citizen as against another; it simply furnishes an additional guaranty against any encroachment by the state upon the fundamental rights which belong to every citizen as a member of society. The term "due process of law"

refers to that law of the land in each state which derives its authority from the inherent and reserved powers of the state exerted within the limits of those fundamental principles of liberty and justice which lie at the base of all our civil and political institutions. The guaranty of due process demands only that the law shall not be unreasonable or capricious, and that the means selected shall have a reasonable and substantial relation to the object sought to be obtained. The due process clause does not prohibit action by a private individual, unless the state, in any of its manifestations, has in some way involved itself in the actions of an individual to some significant extent.

The equal protection clause of the Fourteenth Amendment furnishes a distinct right, separate from and independent of the rights protected by the privileges and immunities clause. Rights under the equal protection clause arise only where there has

been involvement of the state or one acting under its authority. It does not add anything to the rights which one citizen has under the Constitution against another. Because the virtue of the right to equal protection of the laws could lie only in the breadth of its application, its constitutional assurance was reserved in terms whose imprecision was necessary if the right were to be enjoyed in the variety of individual-state relationships which the Amendment was designed to embrace. Not every denial of a right conferred by state law involves a denial of the equal protection of the laws within the meaning of the Fourteenth Amendment, even though the denial of the right to one person may operate to confer it on another. The element of intentional or purposeful discrimination is necessary to establish a denial of equal protection of the laws. This may appear on the face of the action taken with respect to a particular class or person, or it may be shown by

extrinsic evidence establishing a discriminatory design to favor one individual or class over another. A discriminatory purpose is not presumed, and must be clearly shown.

STATUTORY PROVISIONS INVOLVED

The United States Code, Act of June 25, 1948, C.645, 62 Stat. 763; May 24, 1949, C.139 §34, 63 Stat. 94, 18 U.S.C. §1341, provides as follows:

"§1341. Frauds and swindles. Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Post Office Department, or takes or receives

therefrom, any such matter of thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined not more than $1,000 or imprisoned not more than five years, or both."

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1992

JOSEPH ALBERICI AND THERESA ALBERICI, H/W

V.

SAFEGUARD MUTUAL INSURANCE COMPANY, ET AL.

PETITION FOR A WRIT OF CERTIORARI

TO THE SUPREME COURT OF

THE COMMONWEALTH OF PENNSYLVANIA

Pro Se Petitioner, Joseph Alberici, hereby petitions for a writ of certiorari to review the decision of the Supreme Court of the Commonwealth of Pennsylvania denying allocatur in favor of Petitioner Joseph Alberici in connection with the granting of summary judgment against him and in favor of Respondent Insurance Companies on his suit for recovery of insurance proceeds.

OPINIONS BELOW

The order of the Superior Court of the Commonwealth of Pennsylvania filed October 31, 1991, affirming the grant of summary judgment against Petitioner Joseph Alberici is contained in Appendix A. A copy of the order of the Supreme Court of the Commonwealth of Pennsylvania denying allocatur is contained in Appendix B.

STATEMENT OF JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. 1254.

STATEMENT OF CASE

This is a Petition for Certiorari arising from a long term travesty of justice involving legal matters all of which arise from circumstances surrounding the agreement to purchase a commercial building and the fight between Petitioners, as policyholders, and their insurance companies for insurance proceeds which became payable upon damage to the building. As noted by distinguished lawyer and author William M. Shernoff, "(m)any policyholders settle a claim for less than is due them as a way of life. Rather than being rescued by the heroic images used by insurance companies such as Paul Revere, John Hancock, or Thomas Jefferson, the policyholder becomes victimized by accusations. He or she is charged with dishonesty, arson, malingering, and fraud." Payment Refused, Richardson & Steirman, Inc., 246 Fifth Avenue, New York, New York, 10001, Copyright

1986, ISBN 0-931933-14-5. To me, and to my wife and family, Mr. Shernoff's words really hit home because this has been our life story since 1978. It was in 1978 that we filed suit against our insurance companies for the proceeds of insurance policies which became payable as a result of a fire which damaged a building we owned. The fire occurred before we purchased the building, but our lawyer told us the agreement we signed placed the risk of loss on us. Our insurance brokers advised us on insurance, and because of some pricing schedules, we were told it was cheaper for us to purchase more insurance than we needed because we could get it for less. Our coverage was about $450,000 of insurance on the land and building plus $50,000 for the contents. A binder for $100,000 of insurance was due to expire in a couple of days, leaving only $350,000 of insurance. The building was a movie theatre plus parking, and we intended to use it for a

catering business or restaurant. At the time, our son wanted to be a chef. He has since become one, a fine one. We purchased the building from a distressed owner for what we believed was much less than the fair market value. Prior to closing, the fire occurred. We were forced to close the transaction. Afterwards we were approached about the insurance proceeds by an adjustor, and we decided to pursue the insurance. As naive fire insurance policyholders, we did not make a fire loss claim because we expected to hear from the insurance companies, because we were told they would contact us. The adjustor approached us at the site October 31, 1977, 13 weeks passed the 30-day deadline contained in the insurance policies. If I had a scheme to defraud anyone, I would have claimed a loss immediately. Eventually I, Joseph Alberici, was indicted for mail fraud. The indictment alleged I had the building burned so that I

could collect insurance proceeds. The federal prosecutors produced witnesses that said they burned the building for me. These witnesses said they used several 55-gallon drums of naphtha and left one at the theatre. Although the Pennsylvania State Police and local crime labs had some type of records about finding a 55-gallon drum, they said the drum contained phenol. Phenol, from what I understand, is an agent for cleaning that would not be uncommon to find in a movie theatre. I don't know what it was. We had not purchased the theatre yet. No one ever found any explosive material; no one ever found a destructive device. The state investigators confirmed this in writing; but the federal prosecutors had some witnesses who testified that they burned the theatre. The one witness, Joseph DiTizio, who the trial judge found to be the only one who provided credible evidence had his family relocated. He received $5,000.00 plus

expenses for his lying testimony. The federal government's alleged arsonists, Vincent Fardella and Joseph DiTizio, were indicted on three counts November 10, 1981. Count Two was for Interstate transportation in aid of racketeering arson. The indictment states: "defendants did travel and cause travel in interstate commerce, from the State of New Jersey to the State of Pennsylvania, with the intent to establish, promote, manage, carry-on and to facilitate the promotion, management, establishment and carrying-on of an unlawful activity, the unlawful activity being arson, in violation of the laws of the State of Pennsylvania, in violation of Title 18, United States Code, Sections 1952 and 2.

This occurred nine months before the Statute of Limitations on arson expired on August 6, 1982. It's incredible that the Commonwealth of Pennsylvania and Delaware County stopped investigating the arson on

September 28, 1978, according to State Trooper DiGiamberdini's report.

(1) The State and County officials knew from the appearance of the building after the fire that no structural damage was done.

(2) They knew no damage was done to the adjoining homes and automobiles. The windows therein were not cracked or shattered.

The alleged arsonists, one in the building and the other outside the front door waiting to pick him up in the get-away car when the explosion allegedly occurred, did not get hurt. They would have been exterminated if the explosion had occurred with the use of 75-gallons minimum or 110-gallons maximum of naphtha (a volatile explosive) according to Agent Lory's hearsay report. It's no wonder Lory's report given to the A.T.F. lab in 1979 and the analysis of it are missing since 1986.

A serious question, it was public knowledge by the many news articles that

appeared, because I was an unindicted co-conspirator – what happened to the State and County officials responsible for a state crime? They were fully silent, besides not interviewing or questioning them or me about a serious crime. This is a violation of my due process and an obstruction of justice. Later my conviction was overturned. Later still, my conviction on Count Five, was reinstated. After my conviction was reinstated on Count Five, the gross inconsistencies of the alleged arsonists and other government witnesses lead me to wonder if the alleged arsonists really did burn the building, and if they did, did they do it the way they said they did. I mean, if they had, I certainly hadn't hired them. I consulted a chemist at the University in Philadelphia, Pennsylvania. This consultant advised me that if 110-gallons of naphtha were lit in the manner described by the witnesses, they would have been incinerated and a gaping hole

left in the ground. But although we had $450,000 of insurance (the government prosecutors referred to it as a "cool half million"), our claim wasn't even for half of that. Not only was there no gaping hole in the ground, there were witnesses left to tell about it. No structural damage was found. I told this to both the District Court and the Appeals Court, but they said they couldn't help since my lawyer could have called this chemist at the trial but he didn't. This same United States Court of Appeals said my lawyer, who didn't use this chemist at trial, was not negligent. Something just didn't seem right. If my lawyer investigated these witnesses, he must have found out about the lies the witnesses told. I think any other tactic which ignores this is negligence. I know I am innocent. Since then I have been investigating and pursuing the same goal in three different lawsuits.

This Petition for Certiorari is my last

chance at restoring my good name and that of my family. That was ruined when the Honorable Judge Pollak noted that although it seems that I had led an exemplary life, I had been convicted. He noted that he didn't know if he would have reached the same conclusion as did the jury. Ironically, this, my last gasp, comes at a time when all three of our lawsuits (with the exception of Petitioner Theresa Alberici's claim for insurance as an innocent co-insured) have been turned down by the Pennsylvania Supreme Court and the United States Court of Appeals, and all within months of each other. The resolution has been that I stand convicted of Count Five. It sent me to prison; it has kept insurance monies from me and my wife; it has ruined our lives. And all of this travesty does not violate our rights, we were told, because I stand convicted of Count Five. Count Five, as a technical matter, has problems, too. The Grand Jury indicted me for Count Five on

evidence labelled Exhibit 49A, supposedly a letter sent from my insurance adjustor to an adjustor who no longer worked for any of the insurance company defendants in my civil case since October 19, 1977, three months before he allegedly received the letter on January 24, 1978. I say this because this letter was supposedly sent from one person to another, each knowing full well of the other's employer, the spelling of the other's name and other important information. However, this Exhibit 49A was sent to a Mr. Derrung. The actual person was Mr. Perrone. The Company name was spelled wrong (Curly vs. Curley) and contained the wrong word (Bureau vs. Company). This Exhibit 49A had no letterhead, no signature, nor a "received" stamp on it, it was addressed to a person who did not exist, at a company that did not exist, and no one ever testified that this letter was ever mailed. At trial, the prosecutor produced a letter and introduced

it as Exhibit 12. Exhibit 12 is entirely different from the Grand Jury Exhibit 49A. It has a letterhead. It has pen marks, little dots, to make it look like it had a signature. No one ever testified that they signed this letter or sent it in the mail. If fact, it looked like a letter that someone had cut and pasted a letterhead on and made a copy. Exhibit 12 had a received stamp on it. Another letter for another count had a received stamp on it. I do not stand convicted on this Count (Six). The same evidence, but not the same result. One is wrong. I think the result on Count Five is.

For years I have struggled through my investigation and have fought on every conceivable ground with a series of lawyers. We have alleged technical violations, factual and legal defenses, constitutional defenses and the like. I even have come to believe that, based upon all the inconsistencies of various legal decisions, perhaps there is a

conspiracy to hide what no one wants to be made public. I have alleged such in the RICO case I am appealing. I think each lawyer failed to see the whole picture. I did not hire the prosecutor's witnesses to burn the movie theater, yet by some twist of the system I stand convicted of this crime. This set of circumstances has led to this Petition.

ARGUMENT

I. THE PENNSYLVANIA SUPERIOR AND SUPREME COURTS ERRED IN DENYING PETITIONERS' REQUEST TO OVERTURN THE ENTRY OF SUMMARY JUDGMENT AND ALLOWANCE OF APPEAL.

A. The evidence was insufficient to prove use of the U.S. Mails, or to prove Petitioner knowingly used them. Petitioner has alleged and testimony below proves the following:

1. ATF agent, Barry Lory, and Pennsylvania State Trooper, William

DiGiamberdini, investigated and found no evidence of a destructive device.

2. ATF agent Lory and Pennsylvania State Trooper DiGiamberdini illegally searched and seized property from our building. They used this property later to falsify evidence for a trumped-up arson explosion in violation of our civil rights under the Fourth Amendment.

3. The Delaware County, Pennsylvania crime lab determined that a 55-gallon drum found at the scene contained a cleaning agent, and this report was given to agent Lory, and DiGiamberdini.

4. No one from Ulmer & Company ever testified at trial that they sold naphtha (the alleged place of purchase of naphtha (that was never found at the scene).

5. Mr. Teplick, from Ulmer, could not identify the alleged arsonists, although it was alleged that Teplick sold the naphtha to them, and he was shown identification

pictures of the alleged arsonists on several occasions. Mr. Teplick was excluded for allegedly violating sequestration.

6. The receipt from Ulmer was tampered with. Agent Lory indicated it was Receipt No. 1480; Mr. Teplick indicated it was Receipt No. 14840; and the receipt itself contained only 148.

7. There was no evidence of use of the U.S. Mails.

8. Exhibit 12 was not sent by certified mail.

9. There is nothing in court record to indicate it was ever mailed.

10. Mr. Horowitz did not send the letter out, and he did not sign it. Mr. Horowitz testified at a deposition on February 12, 1988, that he did not authorize the letter to be sent, nor did he sign it. Mr. Horowitz' testimony was that the letter in question sends our claim. In regard to the effect of this "sends," see Hart, infra.

11. The conviction was purported to be reinstated based upon a charge of delivery. The statute requires knowing delivery, specific intent. No one in my family ever asked the letter be sent or knew it was ever sent.

12. There was a practice in the office of Bertram Horowitz to have documents personally delivered. This is particularly important where, as here, the recipient is so close to the sender.

13. Mr. Horowitz was not personally familiar with the custom and practice of mailing procedures at this office, Young Adjustment Company; besides, his testimony of the normal course of business of his company in August of 1977 was to mail these documents. The letter in question was sent out on January 23, 1978. No one testified concerning the normal course of business on that date. In all of these goings-on, our rights were trampled. The fact that no one

testified that they signed or mailed the claim, and no one testified that they personally were familiar with and knew the office procedure, and that procedure was that all documents are mailed; that, in fact, the procedure was to have some things hand-carried (particularly in the same area of the City); all of these facts indicate that there is insufficient evidence of use of the mails. F.R.E. 602 and 801(c), the knowledge requirement of 803(6), and United States v. Hart, 693 F.2d 286 (1982), White Industries, Inc. v. Cessna Aircraft Co., 611 F. Supp. 1049 (1985).

B. Petitioner's right to Due Process was violated by withholding of information by the District Court and the Prosecutor that Petitioner's Counsel was involved in a grant of immunity.

Petitioner has alleged and proven the following in the Courts below:

1. Petitioner's counsel was offered and

accepted formal immunity in a matter relating to attorney's fees for one Willard E. Moran.

2. The Prosecutor and the District Court entertained Petitioner with a court appearance to determine if Petitioner knew this and was agreeable to his counsel's continued representation.

3. Petitioner's counsel objected to the hearing.

4. The judge misled Petitioner at the hearing, telling petitioner that (i) the manner involved a dispute over fees, (ii) the Judge did not know who the other client was, and (iii) there were no adverse reflections on Petitioner's counsel. This was all lies.

5. Mr. Moran was a convicted murderer.

6. Mr. Tinari, Petitioner's counsel, took a transfer of cash from an organized crime figure across state lines. The person, who paid Mr. Tinari was later found guilty along with another organized crime figure of hiring Mr. Moran for the murder of John

McCullough, head of the roofers union in Philadelphia.

7. Judge Pollak knew the other client.

8. Judge Pollak knew that the Grand Jury matter for which Mr. Tinari was offered and accepted immunity involved a related matter, but the Judge told Petitioner that he had no ground for thinking that Mr. Tinari was anything but faithful.

9. Judge Pollak knew that the other Grand Jury matter involved a Ralph Natale, one who was alleged to be involved in my criminal case.

10. The Prosecutors knew of all of this but failed to so state when asked.

11. Natale was involved with the alleged arsonists. With Mr. Tinari involved with so many crime figures who were intertwined with this case, and with the FBI and the Trial Judge and Prosecutor aware of it, how could Petitioner ever get a fair trial with Tinari as counsel?

12. The Court of Appeals agreed with me that all of this posed a conflict of interest, but then they said I abused the remedy. I think they mean I should have known sooner.

C. The Government had a conflict of interest in prosecuting me.

1. David R. Strawbridge, Esquire, was the Assistant U.S. Attorney who issued the Grand Jury subpoena to me. I appeared and made a statement, at the law offices of Cozen, Begier and O'Connor, because they were representing the insurance companies. Shortly thereafter, Strawbridge joined the Cozen firm. Then Karl Lunkenheimer, who was active in the insurance company defense, went to work as an Assistant U.S. Attorney. Also, in 1988 Michael Baylson, associated with the firm of Duane, Morris & Heckscher, the insurance companies' attorneys since 1984, was recommended by U.S. Senator Arlen Specter for appointment as U.S. Attorney in the

Eastern District of Pennsylvania. This recommendation was approved by John McNichol, Delaware County and The Eastern District's most influential Republican boss. Mr. Baylson is currently in that position. Besides, Mr. Baylson was Senator Specter's re-election Campaign Treasurer in 1986, raising money and using the law firm's time. It looks like the government was prosecuting me for the insurance companies and exchanging lawyers between them to aid in the process. The Cozen firm was forced to withdraw from the matter for their grossly despicable actions and conflicts of interest. I think the government should be conflicted out too.

D. The indictment was improperly framed, grossly in error, legally insufficient, and fraudulent.

1. Quaker State Mutual Group and Eastern Mutual Insurance Company insured the theatre but no claims were made against them. They were included in the indictment to

inflame. It permitted the prosecutor to be able to refer to a "cool half million." The judge should have charged the jury not to include reference to them in their deliberation, and no reference to these two insurance companies should have been permitted. If the reason they were permitted was because my lawyer didn't object, then my lawyer was negligent for not objecting. Taking all of this into consideration, and referring to the indictment, paragraph 4(P), our claims against Insurance Placement Facility, General Accident Insurance Company and Safeguard Mutual Insurance Company amount to only $159,730.70. This figure is not even close to a "cool half million," and the reference thereto was made only to inflame the trial jury.

2. Mr. DiTizio's trial testimony contained repeated denials that he ever talked to Petitioner Joseph Alberici over the telephone. This contradicted the serious and

false charge as set forth in the scheme of the indictment. He was the person the trial judge found to be indispensable to my conviction. This was just after noting that he (the Judge) could not say he would have found as the jury did.

3. The government intimidated then plea bargained the witnesses' testimony in exchange for deals on charges not related to the Petitioner. These witnesses would have said anything to make a deal.

4. I was never charged with arson. (The Pennsylvania Superior Court also found that I could have been convicted without there ever having been a determination that I committed arson. This was in connection with my appeal concerning the state case for insurance proceeds, discussed infra).

5. Count One and Count Three both relate to Safeguard. If Count One and Count Three were set aside, how can Count Five, which relies on Count One, and the Count One

Insurance Company, still stand? Especially since Count Five, which includes Curly Adjustment Co., Perrone and Derrung, on this intangible and irrelevant letter copy, is not even mentioned in the indictment scheme of Count One. Nor are they mentioned in the Count One, Paragraph 4(p).

6. Judge Pollak fatally and grossly erred in reconsidering the prosecutor's Motion to Vacate Order of New Trial. Judge Pollak, after the alleged "reconsideration" found me guilty of Count Five only, based upon Exhibit 12 and not Exhibit 49A, the most insignificant, intangible, and irrelevant mail fraud count of the six-count indictment. Judge Pollak had a moral and ethical duty to exercise his judicial prudence and scholarly experience. He was bound to thoroughly review and analyze the indictment, its scheme, grand jury 49A and trial Exhibit 12. Judge Pollak neglected to do this because if he did do this he would have noticed that I

was not charged two additional counts for Eastern Mutual and Quaker State insurance companies. He also erred when he allowed the prosecutor, in her opening statement, and another prosecutor, in his closing statement, to refer to these two insurance companies. All of this had the effect of placing evidence of trail on eight counts, when the scheme of the indictment mentions only three insurance companies for four counts. In failing to instruct the jury in this regard, Judge Pollak erred. The facts here leave very little doubt as to why all of the mail fraud evidence is missing from Judge Pollak's chambers, the U.S. Attorney's office and the ATF Washington Bureau.

The indictment was drawn in a way to deceive and inflame the jury. Petitioner also believes that an inept scrivener prepared it. Counts Five and Six, by any reasonable look at the indictment, should have referred to Quaker State and Easter

Mutual. But we didn't make claims against those companies. In addition, I think the letter which was submitted in Count Five was fabricated. The indictment was not proved by the trial evidence, and the evidence which was used was deceitfully substituted at trial to make it look worse for us.

E. Counsel was negligent for not objecting to the substitute.

1. Counsel did not object to the substitution of Exhibit 12 for Exhibit 49A.

2. Petitioner did not sign the stipulation for use of Exhibit 12 in substitution for Exhibit 49A. Why would I ever do that anyway?

3. The substitution of Exhibit 12 for Exhibit 49A, now with a received stamp and a letterhead, at such a late stage in the proceedings, deprived me of meaningful confrontation and cross-examination of witnesses. This having been the case, Stirone v. U.S., 361 U.S. 212, (1960)

requires a finding of reversible error. See also U.S. v. Maselli, 534 F.2d 1197 (1976), U.S. v. Goldstein, 502 F.2d 526 (1974), Gaither v. U.S., 413 F.2d 1061, (1969), Ex Parte Bain, 121 U.S. 1, (1887). The decision in my case creates a dichotomy between decisions of different circuit courts of appeals.

This also trampled our rights under the Fifth Amendment and Sixth Amendment, in that the government did not amend the indictment but introduced evidence which proved materially different facts. See U.S. v. Cusmano, 659 F.2d 714 (1981).

F. The Trial Judge entered the Jury Room and tainted the jury in violation of the sanctity of jury deliberations.

1. Judge Pollak entered the Jury Room at 0955 on January 19, 1983.

2. No transcript preserves what was said.

3. Counsel was not present.

4. The proper procedure is to bring the jury into the courtroom for instructions.

5. The jury reached a verdict of guilty shortly after the judge entered the jury room.

6. At Bertram Horowitz's deposition on February 12, 1988, and later, for the 1978 civil case, plaintiffs discovered that the principal issue in all the litigation, Count Five, is false, fraudulent and fabricated.

For all of the foregoing reasons, my conviction on Count Five must be reversed.

7. Judge Rita Prescott held ex parte communications, where our counsel was excluded, both in person and by telephone, with the U.S. prosecutors and at a hearing for discovery. After this ex parte conversation Judge Prescott continued this matter. No evidence was presented to justify the continuances. The prosecutors failed to respond to several rules to show cause why the matter should not proceed.

II. THE GOVERNMENT'S PROSECUTION WAS TAINTED BY ITS FAILURE TO DISCLOSE EXCULPATORY EVIDENCE, BY ITS COERCION OF GOVERNMENT WITNESSES AND BY ITS CASUAL AMENDMENT OF THE EVIDENCE.

A. The prosecution of defendant was tainted by the government's failure to disclose certain exculpatory evidence, by its blatant arm-twisting of government witnesses, and by the process of changing evidence during the investigatory stages of the case to fit its needs as follows:

1. The reports used by certain federal and other crime agencies were not made available to defendant.

2. The reports issued and used as evidence, such as the reports of the B1-County Crime Lab and the Bureau of Alcohol, Tobacco and Firearms Laboratory, are lacking in substantive value in that the reports fail to distinguish between gasoline and naphtha or the amounts of gasoline and naphtha found;

further, the reports fail to show normal percentages of naphtha found in rugs or the atmosphere. Moreover, the ATF Lab relied on ATF Agent Barry Lory's March 27, 1979, report requesting that a Title XI Determination Report (Explosive) be made based on his false hearsay report that the quantity of naphtha, maximum 110 gallons, minimum 75 gallons, was used for the Jerry Lewis Theater fire (FOIA, p. 26). Also, at this point in time the government did not know anything about Ulmer & Co. and Teplick. Lory allegedly interviewed Teplick on June 4, 1979.

3. When Fardella appeared recalcitrant to testify the way the government wished, it filed a Dangerous Special Offender Petition against him and the U.S. Attorney misled Petitioner's attorney on the status of this matter on December 28, 1982.

4. Charles Allen's statements of September 18, 1978 and October 7, 1978,

stated he and Fardella did the alleged arson and did not even mention DiTizio.

5. Allen, the government, and Fardella stated many times that only Allen and Fardella were involved in setting fire to the Jerry Lewis Theater on August 6, 1977. FOIA pp. 20, 22, 25, 28, 29 and 57; also Allen Memorandum of Agreement December 31, 1978, and Allen's information pleading filed with the Court on February 4, 1980, and Fardella's polygraph examination on September 24, 1981.

6. On December 18, 1981, DiTizio filed a motion for trial severance from Fardella, because Fardella had exculpated him at the August 14, 1981 meeting and at the September 24, 1981 polygraph.

7. On December 23, 1981, the government answered DiTizio's severance motion and admitted that Fardella had exculpated DiTizio.

8. On January 4, 1982, AUSA Wehner

sent Burton Rose, DiTizio's court-appointed attorney, a letter saying Fardella stated "that he and Charles Allen committed the arson at the Jerry Lewis Theater at the direction of Allen and that no third person was involved."

B. Judge Pollack granted DiTizio the trial severance on January 18, 1982, and in his memorandum he gave four specific reasons why he granted the severance.

1. Wehner's August 10, 1981 agreement letter to Mr. Simon, Fardella's attorney.

2. Fardella's September 24, 1981 polygraph exculpating DiTizio.

3. Wehner's January 4, 1982, letter to Mr. Rose exculpating DiTizio.

4. Fardella would not exculpate DiTizio and inculpate himself.

C. Fardella in his testimony, January 10, 1983, stated that: "One other person was present when the arson was performed on

August 6, 1977, Charles Allen. No other person was present." p. 60, 61. This conforms with Fardella's statement to the government on August 14, 1981, FOIA, p. 56, and AUSA Wehner's statement in his letter to Burton Rose, DiTizio's attorney on January 4, 1982. Fardella: "I saw DiTizio one time when I came from the Federal Institution to be arraigned, and he was sitting in the back of the court room, and I was told through my attorney that this is Mr. DiTizio." And but for someone telling you, you would not even recognize him today; isn't that correct? Fardella: "Correct." pp. 90-91. Fardella: They wanted me to testify on the Jerry Lewis Theater, and at that time they have five names - I think it was either four or five names they had down, which one was mine, and Charles Allen, and Ralph Natall. "Well, the other names I didn't even know, never met them people in my life." p. 112. Mr. Wehner: "When that statemert was taken by

myself and Ms. Epps you did not tell the truth at that time; isn't that correct?" Fardella: "No." p. 115.

D. That in an early statement to Agent Lory, William Merrill, III, and Gladys Merrill, his mother, and William Merrill, his father, stated that the persons at the theater were in their twenties, and when shown a photo spread containing Fardella, DiTizio and Allen they were unable to identify them. They were not called at trial to identify either Allen, Fardella or DiTizio, even though Fardella, DiTizio and Allen were present or in custody. This fact was never communicated to defense counsel and their statements were not turned over to the defense until February of 1985.

1. Mr. Merrill did not see any drums being put into the theater or removed from the theater.

2. The salesperson at Venuti's Hardware saw pictures of the alleged

arsonists and could not identify them as parties who bought tools in his store, which tools were found at the fire scene.

3. Mr. Teplick also failed to identify the alleged arsonists.

4. The Honorable LOUIS POLLAK, Trial Judge, was involved in the processes of pleas changes and other stages of the prosecution against DiTizio, Fardella and Allen, which processes produced evidence which was so divergent at times to be unbelievable and certainly not credible and he should have seen such inconsistencies.

5. The evidence of explosive agents such as naphtha and the alleged use of such was trumped up, manufactured and otherwise devised so as to give the Court jurisdiction when in fact there were no explosives and no evidence of such.

6. The prosecution failed to disclose Jenks and Brady materials, thereby

violating Petitioner's due process rights and depriving him of a fair trial.

7. Petitioners also suggest that, as stated by Justice Reed in United States vs. Morgan, 346 U.S. 502, at 512-513, "(w)here a petitioner has fully served his prison term for a felony conviction, though the term has been served, the results of the conviction may persist. Subsequent conviction may have heavier penalties (or) civil rights may be affected," Appellant's civil rights are continuing to be affected. Even the defendants below admitted this when they argued that the outcome of the (RICO) case was predetermined by Joseph Alberici's conviction for mail fraud. Petitioners acknowledge this fact, and still allege that the conviction was obtained by false and fraudulent means, (the fabrication and knowing use of fabricated evidence). Appellants believe this resulted in our civil rights being trampled by the powerful, legal,

judicial and political force, carried out by the intimidation.

E. Judge Labrum's actions in declining to disqualify himself were taken in defiance of established rules of judicial conduct and with arrogance concerning the civil rights of appellants. It was not until he again accepted for the basis of his decision the intentionally submitted lies of Mr. O'Hayer that Judge LaBrum decided to disqualify himself.

1. The Superior Court and the Supreme Court of Pennsylvania were duped by the insurance companies, their attorneys, and by Judge LaBrum into believing that somewhere in the Pennsylvania Trial Court records is reference to "policy" and "unknown to insureds" when we indicated in our Motion to Strike based upon black letter law that no such records exist. In a strange, suspicious and tainted manner, our Motion to Strike was denied Per Curiam within seven days without

even waiting for the response by our opposition. Pennsylvania Rules of Appellate Procedure 123(b) requires the filing of an answer within seven days of service. Appellants believe this was in error and it further denied our civil rights

and our rights to due process of law. Our attorney suppressed the denial from us intentionally for five weeks. Also, he failed to inform us that the Appellees intentionally failed to respond to our Motion to Strike although they responded to two later motions for reconsideration of the denial of our Motion to Strike. The Pennsylvania Supreme Court, Per Curiam, saw fit to ignore this serious matter although I filed a reconsideration motion about the insurance companies intentional misrepresentations, fraudulent and fatal false lies with a notarized affidavit verifying to the truth of this. The political power of Mr. McNichol, Mr. Baylson and Senator Specter penetrated the Superior and Supreme Courts. This is unsworn falsification to authorities Pa. 18,4904 (1), (2) and (3), a misdemeanor of the second degree.

The incredible and numerous news articles which appeared between October 15, 1992 and the end of January, 1993 about the alleged scandalous and corrupt misconduct of some members of the Pennsylvania Supreme Court confirms our suspicions.

2. The Pennsylvania Superior Court erred in affirming summary judgment against Petitioner Joseph Alberici, and the Supreme Court of the Commonwealth of Pennsylvania, by denying allocatur, is letter a decision of the state court contravene the Fifth Amendment to the Constitution of the United States.

III. PETITIONERS BELIEVE THAT A FAIR AND IMPARTIAL TRIAL CANNOT BE HAD IN DELAWARE COUNTY.

A. The instant matter has been pending now since 1978. In the years since filing, Petitioners have endured numerous newspaper articles which portray him as a corrupt

politician and alleged arsonist. The latest article appeared in the Philadelphia Inquirer, Suburban Metro Section, Tuesday, October 27, 1992. Petitioners believe that the lies contained in the news article were published intentionally and deceitfully, either directly or indirectly, by Republican Party Boss, Mr. John McNichol, his controlled Delaware County Courthouse, the insurance company defendants and counsel. They did this in a defamatory and libelous manner while this case is set for trial and two related appeals in the Federal Court system were set for rulings on appeal. All of this creates an appearance of impropriety, impartiality, conflict of interest and bias. Petitioners believe this article was published with a reference to Joseph Alberici to mislead and inflame the federal judges who have since then ruled against us. Note that at no time has Joseph Alberici ever been charged, indicted, tried or sentenced for

arson.

1. Eight different judges in 11 shifts have presided over this case. Judge Labrum was involved in three of those shifts. Several judges presided over this case without Plaintiffs ever receiving notice from the Court Administrator's Office that the judge was assigned to the case. In fact, Judge LaBrum ruled on a matter when the Court Administrator had informed us that Judge Battle was the presiding Judge.

2. In the years since the filing, Petitioners have suffered various suspicious occurrences in the Delaware County Courts. These matters have been the subject of various filings of record. Set forth below are the most egregious examples of record.

(a) Petitioners have recently served subpoenas upon the Defendants. A Motion to Quash the Subpoenas was apparently filed, and came before The Honorable Judge LaBrum. Judge LaBrum granted the Motion to Quash over

objections that he should recuse himself. Judge LaBrum did recuse himself from future consideration in the case, but granted the Motion to Quash anyway. If a Judge should recuse himself, we find it unsettling that the Judge should exercise jurisdiction one last time before he bows out. It just makes the whole thing seem manipulative.

(b) We believe Judge LaBrum should have disqualified himself because a judge should disqualify himself when there appears to be an impropriety, when there appears a conflict of interest, when there appears to be bias, or when there appears to be partiality. We have sued Judge LaBrum and have recently appealed as to him. The attorneys representing the insurance companies in this matter, and the insurance companies themselves, are also defendants in the same suit as Judge LaBrum. In addition, all of the aforementioned are potential witnesses in the Civil Rights suit, if our Petition for

Rehearing in the federal civil rights matter was successful. We believe this is the kind of situation where bias should be presumed. In addition, the judge's partiality might reasonably be questioned where he is asked, by co-defendants in one case, to quash subpoenas served in another case upon co-defendants in the first case. In the event the subpoenas elicit a response which is detrimental to the insurance companies in this matter, this might be detrimental to Judge LaBrum and the law firm Duane, Morris & Heckscher in the Civil Rights Case. This appears to represent a conflict of interest.

(c) All of this seems to raise a question of the impropriety of Judge LaBrum exercising jurisdiction to quash subpoenas. We also believe jurisdiction was exercised improperly, that Judge LaBrum knew it to be improper and intentionally acted anyway, and Appellants believe it was done solely for the purposes of Judge LaBrum, the Insurance

Company defendants and their law firm to obstruct justice, by blocking discovery under oath at a deposition, from the fear of exposure of their false and fraudulent acts to the Pennsylvania Supreme and Superior Courts. The deposition would have exposed their intentional criminal act of misrepresentation and big lies of policy "unknown to insureds." We aver and attest that these words absolutely never existed in Count Five, either in this matter or the criminal matter. These words duped the high courts into their rulings against us on fraud because of the "unknown to insureds." The counts of mail fraud containing allegations of policies and "unknown to insureds" were voluntarily dismissed by the prosecutor and the judge. Thus, Mr. Alberici is not guilty on those counts. Since he is not guilty of those counts which relate to insurance companies, how, by any stretch of the imagination can he

be guilty of Count Five? It did not relate to any insurance company, nor does it contain the words "unknown to insureds." Statements of the above were allowed by Judge LaBrum to enter into the record without verification whatsoever while this case was on appeal while the Honorable Joseph Battle was the Judge assigned to the case by the Delaware County Court Administrator. Judge Battle had been the presiding judge as of November 30, 1989. Besides, he completely ignored our motion to strike their lies for lack of affidavits filed April 16, 1990, approximately five months prior to his ruling in error. Appellants believe it was intentionally done in violation of their civil rights, and their rights to due process. In this regard, Appellants also believe the actions of Michael O'Hayer, Esquire in introducing the despicable "unknown to insureds" lies contributed to this violation of our civil rights. When

asked to stipulate to the non-existence of the "unknown to insureds" allegation, Mr. O'Hayer dodged the question with further intentional lies and misrepresentations.

(d) The Delaware County judges have allowed the insurance companies to suppress critical interrogatories by not answering them, although two different judges ordered them to be answered. Our motion for sanctions filed for not answering has been ignored. The insurance companies also intentionally refused to answer our requests for admissions although the Court ordered that they be answered.

(e) Judge LaBrum, on October 4, 1990, granted the Defendants Summary Judgment again:

(i) In defiance of the Pennsylvania Superior Courts' Memorandum and directions of December 3, 1986 for a trial.

(ii) He intentionally ignored Plaintiffs' Motion to Strike the insurance

companies Answers to Plaintiffs Summary Judgments and their Cross Motion for Summary Judgment for lack of the required affidavits in violation of R.C.P. and Phaff v. Gerner, 303A, 2d 826, 451 Pa.146, (1973)

(iii) This case was not clear and free of doubt. Rossi v. Pa. State University, 340 Pa. Super 498 A.2d82, (1985)

iv) Several issues of genuine material fact of record had to be resolved. Pa. R.C.P. 1035(b) and Helinek v. Helinek, 337. Pa. Super ___ ____ 487A. 2d 424 (1985)

(v) The burden of demonstrating that there is no genuine issue of material fact is upon the moving party, Kessler v. Jones Motor Co., Inc. 337 Pa. Super 602, 487 A.2d 424 (1985)

(vi) In fact, the insurance companies in their answers to Joseph and Theresa Alberici's summary judgment on April 2, 1990, admitted in their new matter in No. 9 that: Material issues of fact remain which preclude

the grant of Summary Judgment in favor of Plaintiffs. None of this created an impression on Judge LaBrum. For the official and political power and pressure of our opponents, he granted the insurance companies' summary judgment. One material issue to be resolved was the voluntarily dismissal of five counts of mail fraud, which were the only related and relevant counts to the insurance companies. Plaintiffs did not have this critical issue when the Superior Court remanded this case back to the lower court in 1986.

(f) Judge LaBrum ruled on the Defendants' Summary Judgment while this case was on appeal in violation of R.A.P. 311(3). Besides, our attorney sent him a letter on September 19, 1990, two weeks before his ruling of October 4, 1990, suggesting that further proceedings were not permitted. Also, he allowed a memorandum of law to remain of record which was filed five and

one-half months late over the objection of Plaintiffs in violation of R.A.P. 311(e) and Pennsylvania Black Letter Law.

(g) Judge Kelly originally entered summary judgment in favor of Defendants, but it was reversed on appeal.

(h) Judge LaBrum granted summary judgment in favor of Defendants three years after the first order of summary judgment. Judge LaBrum's ruling was substantially similar to the ruling of Judge Kelly. Judge LaBrum's order granting summary judgment has also been reversed on appeal. Besides, they defiantly and blatantly disregarded the directions of the Superior Court when they remanded the matter back to the lower court back in 1986.

(i) Defendants routinely file motions without affidavits or verifications in violation of the Rules of Civil Procedure. The Delaware County Court routinely permits the motions to be heard despite our objection

for lack of affidavit. They also refused to submit affidavits in their lying answer to our Motions for Summary Judgment in violation of the Pennsylvania Rules of Civil procedure and in violation of Phaff v. Gerner, 303 A.2d 826 (1973).

(j) In granting summary judgment, Judge LaBrum failed to examine the record of the federal criminal trial to determine whether the disposition in the federal court included a determination that Joseph Alberici committed arson. This is a dispositive issue concerning Petitioner Joseph Alberici's right to be included in this matter.

(k) Our attempted discovery addressed to the matters of (i) whether an explosion occurred at the Jerry Lewis Theater, (ii) whether there were eyewitnesses to the alleged arson, and whether those eyewitnesses could identify the alleged arsonists, etc., was blocked by the Delaware County Court by the granting of protective orders.

Petitioners still allege no explosion occurred; and all parties, defendant as well as their counsel, know this. Judge LaBrum, in March, 1979, quashed subpoenas and depositions for discovery that lasted over a year without any evidence whatsoever to justify it.

(l) Despite evidence to the contrary, Delaware County Courts have ignored the fact that Defendants, by counsel, have placed documents of record and included false affidavits from Dora C. Shafer, the alleged president of Respondent Safeguard. Our motion to strike these documents because the affidavits were false and because Oscar Gaskins, Esquire was the president of Respondent Safeguard, was dismissed by Judge Toal.

(m) Judge LaBrum's actions in declining to disqualify himself were taken in defiance of established rules of Judicial conduct and with arrogance concerning the civil rights of

Petitioners. It was not until he again accepted for the basis of his decision the intentionally submitted lies of Mr. O'Hayer that Judge LaBrum decided to disqualify himself.

A. Harter v. Reliance Insurance Co., 562 A.2d 330 (1989) permits recovery of insurance proceeds by Petitioner Joseph Alberici.

B. Harter permits recovery if Petitioner's conviction includes a determination that he is/would be guilty of arson.

C. The Superior Court has determined that my conviction for mail fraud did not include, as a necessary condition, an allegation of or proof of arson.

D. The Superior Court has determined the threshold question but has misapplied the corresponding law.

E. The Superior Court also noted that it appeared I was trying to fight my conviction in the civil case, but absent fraud, perjury or other error, they could not let me do it.

F. I have been arguing fraud, perjury and violations of my constitutional rights. No one is listening. The Supreme Court of

Pennsylvania denied me allocatur. I need your help.

G. I have filed RICO, Civil Rights, and other claims. I believe all of these cases are about the same thing, the violation of our rights to due process, to liberty and property without due process of law. Our rights have been trampled because of the awesome legal and political power wielded by the Respondents.

H. The Superior Court erred in ignoring our brief and hundreds of exhibits which indicate Constitutional violations, a conviction obtained by fraudulent means and denying our Motion to Strike based upon Pennsylvania black letter law. This was all done without justification.

SHOULD THE JUDGES HAVE RECUSED THEMSELVES FROM THE OBVIOUS AND GROSS APPEARANCES OF IMPROPRIETY, PARTIALITY, CONFLICT OF INTEREST, BIAS AND/OR PREJUDICE

AND THE INTERACTION OF THE JUDGES INVOLVED IN THE RELATED CASES AS FOLLOWS:

Judge Van Antwerpen erred when he denied the disqualification of U.S. Attorney Baylson and Duane, Morris & Heckscher; he also erred in his decision to dismiss the complaint. Also, his biased remarks against me indicate his bias. (Judge Van Antwerpen, in reciting the case history, says I burned down a building. I never did any such thing, and no such thing has ever been alleged or proven.) He should have disqualified himself as soon as he agreed to accept Senator Arlen Specter's offer when he extended an olive branch offering of a prestigious elevation to the Court of Appeals during the time he was considering the merits of our case. Judge Van Antwerpen knew about the tainted influence of our opponents' connections from the pleadings on record and possible inquiries. He should have disqualified himself from presiding in this case because

he knew the above created an appearance of impropriety, partiality, conflict of interest and bias.

Incredible and unreal. Political influence and pressure was applied for 14 years in our three cases. Besides the misconduct through the appearances of impropriety, partiality, conflict of interest, bias and/or prejudice and unlawful actions through intimidation and perjury, etc., it appears as if government officials, insurance companies, attorneys and politicians are "ABOVE THE LAW AND JUSTICE." This is a travesty of justice, a national disgrace and outrage. Also, the interaction of the federal district courts, courts of appeal, and court en banc is incredible and unusual and leaves much for the imagination to ponder over. All of this transpired under the color of law and justice against our civil rights.

CONCLUSION

For all of the foregoing reasons, we respectfully request that the Court grant Certiorari and review the decisions of the Pennsylvania Superior and Supreme Courts. The facts presented herein compounded with many improprieties in the entire case history warrants a finding that our most fundamental rights were grossly violated.

Respectfully submitted,

_____

Joseph Alberici

APPENDIX

APPENDIX A

JOSEPH ALBERICI AND THERESA ALBERICI, Appellants	:	IN THE SUPERIOR COURT
v.	:	OF
SAFEGUARD MUTUAL INSURANCE COMPANY, GENERAL ACCIDENT FIRE AND LIFE ASSURANCE CORPORATION, LTD., THE INSURANCE PLACEMENT FACILITY OF PA., QUAKER STATE MUTUAL GROUP AND HOME MUTUAL INSURANCE COMPANY OF PA., Appellees	:	PENNSYLVANIA
	:	No. 2928 Philadelphia 1990

JUDGMENT

ON CONSIDERATION WHEREOF, it is now here ordered and adjudged by this Court that the judgment of the Court of Common Pleas of DELAWARE County be, and the same is hereby AFFIRMED IN PART, REVERSED IN PART AND REMANDED FOR FURTHER PROCEEDINGS. JURISDICTION IS RELINQUISHED.

BY THE COURT:

David A. Szewczak
Prothonotary

Dated: OCTOBER 31, 1991

APPENDIX B

IN THE SUPREME COURT OF PENNSYLVANIA EASTERN DISTRICT

JOSEPH ALBERICI and THERESA ALBERICI, Petitioners	:	No. 1061 Eastern District Allocatur Docket 1991
v.	:	
SAFEGUARD MUTUAL INSURANCE COMPANY, GENERAL ACCIDENT FIRE AND LIFE ASSURANCE CORPORATION, LTD., THE INSURANCE PLACEMENT FACILITY OF PA., QUAKER STATE MUTUAL GROUP and HOME MUTUAL INSURANCE COMPANY OF PA., Respondents	:	Petition for Reconsideration

ORDER OF COURT

PER CURIAM

AND NOW, to wit, this 8th day of October, 1992, the Petition for Reconsideration in the above matter is hereby denied.

TRUE COPY FROM RECORD
Attest: October 8, 1992

/s/ PATRICIA JOHNSON

PATRICIA JOHNSON
Chief Clerk
Supreme Court of Pennsylvania
Eastern District